



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Amendment of Lodi Municipal Code to Allow Alcoholic Beverage Sale and Consumption in Certain Sidewalk Restaurants

MEETING DATE: May 3, 1995

PREPARED BY: City Attorney

RECOMMENDATION: Council consideration and possible introduction of attached ordinance.

BACKGROUND: The developers of the proposed Hazel's nightclub at the intersection of Oak and School Streets have requested Council consideration of a provision which would allow them to serve alcoholic beverages in a sidewalk cafe setting, as part of their operations. To do so would require an amendment of the Lodi Municipal Code, Section 9.04.010 which presently prohibits the consumption or possession of an open container of alcoholic beverages on designated public rights-of-way.

If it is the Council's desire to do so, the attached ordinance will accommodate that request. It is narrowly drawn, and would apply only to those premises immediately adjacent to a public sidewalk or right-of-way which meet certain conditions. Among those conditions are: (1) that the premises is otherwise appropriately licensed by the State Alcoholic Beverage Control Board (2) that it is part of a bona fide eating establishment (3) that an encroachment permit is obtained and (4) that the sidewalk cafe not be accessible directly from the street or sidewalk, but rather through the front doors of the business establishment.

FUNDING: None.

Respectfully submitted

Bob W. McNatt
City Attorney

BWM:pn

APPROVED: _____

THOMAS A. PETERSON
City Manager

ORDINANCE NO. 1618

AN ORDINANCE OF THE CITY OF LODI AMENDING
LODI MUNICIPAL CODE §9.04.010 BY ADDING THERETO
SUBPARAGRAPH [C], ALLOWING THE SALE, POSSESSION OR
CONSUMPTION OF ALCOHOLIC BEVERAGES ON DESIGNATED
AREAS UPON PUBLIC RIGHTS-OF-WAY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS
FOLLOWS:

SECTION 1. Lodi Municipal Code Section 9.04.010 - Alcoholic Beverage - Open

Container in Public - is hereby amended to include Section “C” as follows:

- C. Nothing in this section shall prohibit the sale, possession or consumption of alcoholic beverages on a public right-of-way, provided that all the following conditions are met:
1. A valid right-of-way encroachment permit for such premises has been obtained from the Public Works Director;
 2. The location upon which such Alcoholic Beverages are to be sold, consumed or possessed is adjacent to and operated as part of a bona fide eating establishment;
 3. The premises are appropriately licensed by the State of California for such sale of alcoholic beverages;
 4. The area of the public right-of-way upon which such alcoholic beverages are to be sold, possessed or consumed is completely surrounded by a fence or enclosure at least four feet high and not directly accessible from the surrounding public sidewalk or right-of-way.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the “Lodi News Sentinel”, a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 1995

STEPHEN J. MANN
Mayor

Attest:

JACQUELINE L. TAYLOR
Acting City Clerk

State of California
County of San Joaquin, ss.

I, Jacqueline L. Taylor, Acting City Clerk of the City of Lodi, do hereby certify that Ordinance No.1618 was introduced at a regular meeting of the City Council of the City of Lodi held May 3, 1995 and was thereafter passed and adopted and ordered to print at a regular meeting of said Council held _____, 1995 by the following vote:

AYES: Councilmembers -

NOES: Councilmembers -

ABSENT: Councilmembers -

ABSENT: Councilmembers -

I further certify that Ordinance No. 1618 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JACQUELINE L. TAYLOR
Acting City Clerk

Approved as to Form:

BOB W. McNATT
City Attorney



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Addendum to Item H-5 (Amendment of Lodi Municipal Code to Allow Alcoholic Beverage Sale and Consumption in Certain Sidewalk Restaurants)

MEETING DATE: May 3, 1995

PREPARED BY: City Attorney

RECOMMENDATION: It is recommended that the draft of Ordinance 1618 (attached to the original Council Communication) be slightly amended to accommodate certain safety requirements. Specifically, the proposed draft of Lodi Municipal Code §9.04.010 C-4 requires that the area on the public right-of-way on which alcoholic beverages may be sold be surrounded by a fence or enclosure as least four feet high and not directly accessible from the surrounding public sidewalk. It is recommended that Section C-4 be amended to read as follows:

4. The area of the public right-of-way upon which such alcoholic beverages are to be sold, possessed or consumed is completely surrounded by a fence or enclosure at least three feet (3') high and not directly accessible (with the exception of emergency exits or gates) from the surrounding public sidewalk or right-of-way.

This change is recommended to comply with miscellaneous exiting requirements.

Respectfully submitted

Bob W. McNatt
City Attorney

BWM:pn

APPROVED: _____

THOMAS A. PETERSON
City Manager

ORDINANCE NO. 1618

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LODI MUNICIPAL CODE §9.04.010 BY ADDING THERETO
SUBPARAGRAPH [C], ALLOWING THE SALE, POSSESSION OR
CONSUMPTION OF ALCOHOLIC BEVERAGES ON DESIGNATED
AREAS UPON PUBLIC RIGHTS-OF-WAY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS
FOLLOWS:

SECTION 1. Lodi Municipal Code Section 9.04.010 - Alcoholic Beverage - Open
Container in Public - is hereby amended to include Section "C" as follows:

- C. Nothing in this section shall prohibit the sale, possession or consumption of alcoholic beverages on a public right-of-way, provided that all the following conditions are met:
1. A valid right-of-way encroachment permit for such premises has been obtained from the Public Works Director;
 2. The location upon which such Alcoholic Beverages are to be sold, consumed or possessed is adjacent to and operated as part of a bona fide eating establishment;
 3. The premises are appropriately licensed by the State of California for such sale of alcoholic beverages;
 4. The area of the public right-of-way upon which such alcoholic beverages are to be sold, possessed or consumed is completely surrounded by a fence or enclosure at least three feet (3') high and not directly accessible (with the exception of emergency exits or gates from the surrounding public sidewalk or right-of-way).

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 17th day of May, 1995

STEPHEN J. MANN
Mayor

Attest:

JACQUELINE L. TAYLOR
Acting City Clerk

State of California
County of San Joaquin, ss.

I, Jacqueline L. Taylor, Acting City Clerk of the City of Lodi, do hereby certify that Ordinance No.1618 was introduced at a regular meeting of the City Council of the City of Lodi held May 3, 1995 and was thereafter passed and adopted and ordered to print at a regular meeting of said Council held May 17, 1995 by the following vote:

AYES: Councilmembers -

NOES: Councilmembers -

ABSENT: Councilmembers -

ABSENT: Councilmembers -

I further certify that Ordinance No. 1618 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JACQUELINE L. TAYLOR
Acting City Clerk

Approved as to Form:

BOB W. McNATT
City Attorney